

CHAPTER 9

IMPROPER PAYMENTS AND LOSS OF FUNDS

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CHAPTER 9**IMPROPER PAYMENTS AND LOSS OF FUNDS**0901 OVERVIEW

090102. Certifying Officers (COs), Disbursing Officers, and Government Officials that handle disbursements and collections have important responsibilities. Within NASA there are no Disbursing Officers and generally public funds are not held by government officials as cash. Nonetheless, from time to time NASA employees may have to handle government funds, particularly in the case of collections. Therefore, this chapter covers fiscal irregularities in NASA which are either improper payments made by COs or the physical loss of funds.

090102. Authority and References.A. Laws.

1. 31 USC 3521. Audits by agencies.
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
2. 31 USC 3526. Settlement of accounts.
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
3. 31 USC 3527. General authority to relieve accountable officials and agents from liability.
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
4. 31 USC 3528. Responsibilities and relief from liability of certifying officials
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
5. 31 USC 3530. Adjusting accounts.
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
6. 31 USC 3532. Notification of account deficiencies
http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter35_subchapteriii_.html
Executive Orders and Regulations.

B. GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 7 Fiscal Guidance, Chapter 8 Settlement of Accounts and Relief of Accountable Officers.
<http://www.gao.gov/decisions/ppm7.pdf>

0902. ACCOUNTABILITY/LIABILITY FOR IRREGULARITIES

090201. The COs certification of a voucher is an assertion of the appropriateness of each payment on the voucher entailing a level of accountability for:

A. The existence and correctness of the computations and facts stated in a voucher and its supporting records.

B. The legality of the proposed payment under the appropriation or fund involved (officials designated as COs for payments are not responsible for assuring the availability of funds).

C. Any illegal, improper or incorrect payment resulting from any false, inaccurate or misleading certificate made, as well as for any payment prohibited by law or which was not a legal obligation under the appropriation or fund involved. Certifying officers shall be held accountable for and required to make good to the United States the amount of such payments as prescribed in Treasury Financial Manual (TFM), Volume 1, Part 4, Chapter 1100.

D. Compliance with internal controls established to safeguard and protect the interest of the Government.

090202. The certification of a voucher is to be performed according to the judgment of the CO based upon the facts establishing the legality and propriety of the claim. COs shall not be arbitrary, capricious, preferential or dilatory when considering vouchers presented for certification.

090203. Coercion or administrative pressure will not be used to obtain a certification. This does not prohibit discussing with the COs any facts or circumstances bearing on invoices with a view toward expediting settlement.

090204. If improper payments can not be recouped by collection, stop payment, or other means, unless relieved of liability the CO is held personally liable for repayment for amounts on vouchers he/she approves with his/her certification where there is:

A. An illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certification made by the officer.

B. A payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

090205. NASA Accountable Officials include those physically handling government funds. Unless relieved of liability they are held personally liable for physical loss of funds. Their responsibilities form a basis for safeguarding the loss of funds and include:

- A. Keeping receipts and records for:
 - 1. Collections received.
 - 2. Collections not deposited.
 - 3. Collections in transit to be deposited.
 - 4. Confirmations of deposits made.
- B. Adequate fiscal control including:
 - 1. Locking funds in a safe.
 - 2. Not permitting unauthorized access to funds.
- C. Observing internal control procedures.

0903 PRECAUTIONS TO AVOID IRREGULARITIES

090301. NASA COs shall make reasonable use of the following to prevent improper payments.

A. Advance Decision on Certification. Concerning vouchers which may prove to be illegal or otherwise improper for any question of law, COs have a right to an advance ruling. To prevent unnecessary submissions to the responsible government agency, COs will, prior to requesting a decision, assure that the assistance within NASA has been fully utilized for resolving these questions.

1. Any questions of law involving payments of \$100.00 or less, which cannot be resolved locally to the satisfaction of the CO, may be referred to the Agency DCFO, NASA Headquarters, for review and advice. COs may rely on written advice from the Agency DCFO, as to propriety of the payment. Such payments will be considered conclusive by the agency in settlement of the accounts of the COs.

2. Referrals to the Headquarters Agency DCFO, should be in the form of a letter and whenever possible be accompanied by a copy of the uncertified invoice or claim, and other pertinent supporting documents. The letter, constituting an administrative report, should contain the following:

- a. A statement of the facts out of which the claim arose.
- b. A statement of the doubt or other reason for forwarding the claim.

c. A recommendation as to the disposition believed to be proper.

3. Upon reaching a decision, the Agency DCFO will provide a written response to the CO, who shall enclose a copy of the advice with the original invoice.

4. If a payment is for more than \$100.00 and the Center Chief Counsel is unable to resolve the propriety of the payment, the question may be referred to the Agency DCFO for resolution

090302. Reasonable Reliance for COs. Often due to a large number of transaction, automated systems, cross servicing arrangements, and prompt payment considerations it is not practical for COs to perform a personal examination of each the transactions for which they are responsible. Nonetheless, NASA COs must be reasonably assured they can rely on systems, controls, personnel, and other methods used to process transactions and verify payments. In regard to reasonable reliance issues, NASA COs shall consider the following in performing their duties.

A. Indicators for reasonable reliance are present, including:

1. Well-defined organizational structure and flow of work, with appropriate separation of responsibilities and clearly written policies and procedures governing the examination, approval, and certification of disbursement vouchers.

2. Effective application of available technology and concepts to achieve efficient and effective voucher processing.

3. Review of the voucher processing procedures and controls in sufficient scope, depth, and frequency that key processing procedures and controls are working and reliable.

B. When performing duties as a CO, the title "Authorized Certifying Officer" shall be used. The date of certification and the CO's name will be typed, stamped or printed below the space for the signature on vouchers, schedule of payments, and on official correspondence (1 TFM 4-2040).

<http://www.fms.treas.gov/tfm/vol1/index.html#Part%204> In automated systems, evidence that payments are accurate and legal must relate to the system rather than to individual transactions. COs should be provided with information showing that the system is functioning properly and can be relied on to produce payments that are accurate and legal. Reviews should be made at least annually by the CO, with interim checks of major system changes. Electronic certification is legal, as long as it has adequate safeguards. The electronic symbol or user signature must be unique to the CO, capable of being verified, and under the sole control or custody of the CO. The Department of the Treasury's Financial Management Service offers the Electronic Certification System (ECS) and the Secure Payment System (SPS) when used in accordance with all

applicable requirements satisfies the statutory requirements for voucher certification and payment.

C. Should the CO believe factor(s) exist that prevent certification of the vouchers including systems, controls, personnel, and methods that can not be reasonably relied upon, the CO shall point out the weaknesses to the appropriate NASA officials and use alternative procedures and/or controls that can be reasonably relied upon. NASA officials are responsible to provide conditions whereby a COs can perform his duties with reasonable reliance.

090303. The best protection for those in physical custody of funds to avoid loss of funds is the exercise of due diligence in performing their responsibilities in FMR Volume 15 Cash Management, 090205 for NASA Accountable Officials handling cash.

0904 RESOLVING AND REPORTING IRREGULARITIES

090401. Potential Incorrect Payment by a CO. When notified by the Office of Inspector General (OIG) or other audit organization that a question has been raised regarding a potential incorrect payment, Centers will obtain supporting data, documents, and information necessary to determine the propriety of charges to or payments from public funds. Prompt attention will be given by the OIG to resolve the area in question and make a final determination if the payment in question was made incorrectly. If the final determination concludes that an incorrect payment was not made, no further action will be required. If the final determination results in an exception to the payment, the following action will be required.

A. The exception is forwarded to the CO and the location where the records are kept (if different than the CO's location), unless otherwise requested by an appropriate NASA official. If the responsible CO is no longer available, the current CO will receive the exception.

B. The CO can reply to the exception and submit any related correspondence, along with the original invoice to the OIG or the requesting audit activity that:

1. Provides evidence of repayment by the payee or CO, or
2. Request a reconsideration of the exception.
3. With the evidence of payment, the OIG or the auditing activity will enter the date that the exception was removed on the invoice and supporting documentation and return the documents to the CO.
4. Under the reconsideration request, the OIG or auditing activity will expeditiously furnish an explanation that clearly explains why or why not the exception has been reversed.

5. When an incorrect payment is found, an account receivable should be established and action should be taken to collect the erroneous payment.

090402. A physical loss of funds will be reported to the OIG through the OCFO.

090403. Internal Report on Irregularities. The Center CFOs will make an internal agency report on irregularities including documentation on resolution and attempts to resolve to the Agency DCFO. The report shall be made as follows:

A. Reports must be prepared on:

1. Shortages due to physical loss of public funds.
2. Illegal, improper or incorrect payments, including disbursements resulting from fraud, forgery, alterations of vouchers and other improper practices.
3. Improper accounting for receipts.
4. Any other irregularity which involves accountability to the United States. Irregularities, as defined above, include all items adversely affecting the accounts of accountable officers, including disclosures by agency examinations of disbursement and collection transactions and subsequent internal review.

B. The internal report should include:

1. Type of irregularity.
2. Date.
3. Amount
4. Names and positions of the CO(s) and others involved.
5. Reference to pertinent supporting documents.
6. Description of how the improper payment occurred and how it affected the CO's or other official's account.
7. Description of the procedural deficiencies, if known, that caused the irregularity and the corrective action taken or to be taken.
8. Information on any recoupment already made or being considered.

C. Documentation for resolution of irregularities must be filed with the report and includes:

1. Whether the questioned items were proper.
2. Whether recovery was made from recipient or CO.
3. If waived (granted relief);
 - a. Amount waived.
 - b. Statute allowing the waiver.
 - c. Credit granted to COs account was authorized by law.
4. Any administrative determinations required by the applicable relief statute, when relief is granted by NASA.
5. Other authorized administrative actions to resolve the irregularity.
6. Any determinations denying relief.

090404. Reporting Repayments to CO Accounts.

A. All correspondence received by COs regarding repayments of amounts determined as a result of an audit to have been incorrectly paid, will be reported back to the appropriate OIG or audit organization.

B. Single Repayment. If the indebtedness is liquidated promptly by a single repayment, the repayment should be reported to the responsible audit organization on a copy of the invoice or by letter, email, or data fax.

C. Installment Repayments. When repayments are to be made in installments, the specific arrangements with the debtor will be reported to the audit organization. The OCFO will report installment repayments to the responsible audit organization on a copy of the invoice or by letter, email or data fax, as of June 30 and December 31, within 15 days of those dates. Other dates for reporting repayments are permissible if agreed to by the responsible audit organization.

090405. Timely Resolution of Irregularity. If resolved within 2 years after the date the accounts are made available to GAO for audit, reporting it to GAO is not necessary.

090406. Reports on Irregularities to GAO. If not resolved within 2 years after the date the accounts are made available to GAO for audit, a copy of the internal

report shall be submitted to GAO by the OCFO or its designee to the OIG who submits to GAO. Reports to GAO are not needed if:

- A. The improper payment is \$100 or less.
- B. The improper payment is a result of the following check losses:
 - 1. Duplicate check losses under \$3,000.
 - 2. Losses resulting for mechanical or clerical error during the check issuance process under \$3,000.
- C. When the unrecovered portion of the loss is subject to routine ongoing collection mechanisms agreed to by the debtor.

0905 RELIEF FROM PERSONAL LIABILITY

090501. A CO may not escape the liability for losses resulting from an erroneous certification due to the inability to personally ascertain that the invoices were correctly stated or to rely upon the statements and computations of subordinates or others. A CO relying on actions of another employee is held responsible for losses resulting from an erroneous certification unless it is shown that the true facts could not have been known in the reasonable exercise of care and diligence (20 Comp. Gen. 182 and 22 Comp. Gen. 578).

<http://www.gpoaccess.gov/gaodecisions/>

090502. COs will not be held liable for payments made pursuant to “claims settlement certificates” issued in the name of the Comptroller General.

090503. COs will not be held liable for payments made in accordance with settlement decisions issued by the NASA Officials.

090504. COs will not be held responsible for any overpayments on transportation requests or on Government bills of lading due to use of improper rates, classification, or on commercial documentation used by ocean carriers, or failure to deduct the correct amount under land-grant laws or equalization, or other agreements, (31 USC 3528(c)). Verification of rates or classifications pursuant to tariffs or equalization and other agreements is unnecessary.

090505. If the NASA Center CFO determines relief from liability for either a CO, who allegedly approved an improper payment, an accountable officer, due to physical loss of funds the following may be done.

- A. The NASA Center CFO may grant relief of liability for improper payments less than \$3,000 provided that:

1. Upon discovery of an incorrect payment the CO took every practical effort to recover the payment, and advised the Center CFO of the occurrence of the loss.

2. The Center CFO:

- a. has examined the facts.
- b. made a concerted effort to find affix responsibility.
- c. assured steps have been taken to recover the amount.

3. If a determination is made that the responsibility for the incorrect payment should not be placed on any employee or employees, including the CO, the Center CFO should seek relief from liability for the CO from Agency DCFO.

B. For irregularities of \$3,000 or higher, the NASA Center CFO shall submit a request for relief to the Agency DCFO which then will be forwarded to the OIG who will handle the reporting to GAO.

1. The request will be submitted at the end of the two year period or sooner.

2. The request will include:

- a. A copy of the NASA internal improper payment report.
- b. Description of collection actions taken.
- c. Identification of an appropriation or fund to be charged if an account adjustment is deemed necessary.
- d. Information showing that there was a reasonable basis for relying on the procedures and controls in an automated system if the relief requested is based on a contention that the loss resulted from such reliance.
- e. Any administrative determinations required by the applicable relief statute; and
- f. Written statement by the CO or a notation by NASA that the CO chooses not to submit a separate statement.
- g. If adjustment of accounts is deemed necessary by NASA the request should indicate which appropriation or fund is to be charged, name and symbol.

090506. The Settlement Process.

A. The controller, GAO will grant relief or issue an exception to the request for relief from liability for irregularities. An exception will require repayment be made by the CO or the accountable official the repayment reported to GAO.

B. Standards for relief for COs are:

1. The certification was based on official records and the CO did not know, and by reasonable diligence and inquiry could not have discovered, the correct information.

2. Or the obligation was incurred in good faith, the payment was not specifically prohibited by statute, and the government received value for the payment.

C. Standards of relief for physical loss of funds are.

1. The loss occurred while the officer was performing official duties or that the loss resulted from an act or omission by one of the officer's subordinates;

2. The loss was not the result of fault or negligence on the part of the accountable officer and;

3. The loss was not the result of an improper payment.